

HOUSE BILL 1024

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By: **Delegates Frank, Cluster, Anderson, Aumann, Bates, Beidle, Boteler, Burns, Costa, DeBoy, Donoghue, Dwyer, Elliott, Glass, Hogan, Impallaria, Jameson, Kach, K. Kelly, Kipke, Krebs, McComas, McDermott, Minnick, Myers, O'Donnell, Otto, Parrott, Proctor, Ready, Serafini, Smigiel, Sophocleus, Stocksdales, Szeliga, and Wood**

Introduced and read first time: February 11, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Murder or Manslaughter – Fetus**

3 FOR the purpose of repealing references to the term “viable” with respect to a fetus for
4 purposes of certain provisions of law concerning the offense of murder or
5 manslaughter of a fetus; defining the term “fetus” for purposes of a prosecution
6 for the offense of murder or manslaughter of a fetus; repealing a certain
7 definition of “viable” rendered obsolete by this Act; providing for the application
8 of this Act; and generally relating to the offense of murder or manslaughter of a
9 fetus.

10 BY repealing and reenacting, with amendments,

11 Article – Criminal Law

12 Section 2–103

13 Annotated Code of Maryland

14 (2002 Volume and 2010 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Criminal Law**

18 2–103.

19 (a) For purposes of a prosecution under this title, [“viable” has the meaning
20 stated in § 20–209 of the Health – General Article] **“FETUS” MEANS, AS**
21 **ESTABLISHED BY MEDICAL TEST OR AUTOPSY, A DEVELOPING MEMBER OF THE**
22 **SPECIES HOMO SAPIENS WHO HAS NOT YET BEEN BORN.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) Except as provided in subsections (d) through (f) of this section, a
2 prosecution may be instituted for murder or manslaughter of a [viable] fetus.

3 (c) A person prosecuted for murder or manslaughter as provided in
4 subsection (b) of this section must have:

5 (1) intended to cause the death of the [viable] fetus;

6 (2) intended to cause serious physical injury to the [viable] fetus; or

7 (3) wantonly or recklessly disregarded the likelihood that the person's
8 actions would cause the death of or serious physical injury to the [viable] fetus.

9 (d) Nothing in this section applies to or infringes on a woman's right to
10 terminate a pregnancy as stated in § 20–209 of the Health – General Article.

11 (e) Nothing in this section subjects a physician or other licensed medical
12 professional to liability for fetal death that occurs in the course of administering lawful
13 medical care.

14 (f) Nothing in this section applies to an act or failure to act of a pregnant
15 woman with regard to her own fetus.

16 (g) Nothing in this section shall be construed to confer personhood or any
17 rights on the fetus.

18 (h) The commission of first degree murder of a [viable] fetus under this
19 section, in conjunction with the commission of another first degree murder arising out
20 of the same incident, does not constitute an aggravating circumstance subjecting a
21 defendant to the death penalty under § 2–303(g)(ix) of this title.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
23 construed to apply only prospectively and may not be applied or interpreted to have
24 any effect on or application to any crime committed before the effective date of this
25 Act.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 June 1, 2011.